IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1701 (MS) OF 2001

OLD NO. 2650 OF 1999

Executive Engineer .....Petitioner.

Versus

M/s Laxman Singh Contractor and another. .....Respondents.

HON'BLE RAJESH TANDON J.

Heard Sri Ranjit Saxena, learned counsel for the petitioner and Sri A.K. Sharma, counsel for the respondents.

By the impugned order the applicant has challenged the order dated 10th December, 2004, by which the Civil Judge has appointed the arbitrator to Sri N.N. Singhal, retired Chief Engineer.

Briefly stated in the year 1991, the petitioner and the respondent no. 1 entered into the contract for the construction of five numbers Nissen Shed.

The contract agreement was entered into on 08.04.1991. Clause 34 of the Agreement provided for an arbitrator to be appointed by the Chairman U.P. State Electricity Board. On 20.01.2004. The Chairman has appointed Hon'ble Mr. Justice U.C. Srivastava, retired Judge as an arbitrator to settle the dispute raised by the respondent no. 1. However, thereafter on 7th June, 1996 the respondent no. 2 has appointed Chief Engineer U.P. State Electricity Board, Lucknow as arbitrator. On 4th February, 1997 the Chief Engineer Design and Construction Hydro Electric Project, Dehradun was appointed as an Arbitrator.

Further on 4th December, 1997, the respondent no. 2 has appointed Sri N.N. Singhal Chief Engineer (retired) Irrigation Department as an arbitrator.

Both the parties have submitted that the circumstances have now been changed. In view of the above, both the parties are directed to appear before the Civil Judge, Senior Division on 15th of October,

2004. Both the parties have agreed for the appointment of the arbitrator in accordance with the arbitration clause. However, the learned Judge shall be at liberty to appoint the arbitrator in accordance with the terms of the agreement who shall decide the dispute by 31st of December.

Sri N.N. Singhal has already retired and the order was passed in the year 1998 and six years have already passed.

In view of the above, the matter is sent back to the learned Civil Judge, Senior Division.

Subject to the aforesaid observation, Writ Petition is disposed of. Copy of the order may be given within three days.

(RAJESH TANDON J.)

04.10.2004
P.S. Rathour